United Union of Roofers, Waterproofers, and Allied Workers, Local Union No. 135, AFL-CIO and Advanced Coatings and Insulation of Arizona, Inc. Case 28-CC-733-3

March 4, 1983

# **DECISION AND ORDER**

# BY MEMBERS JENKINS, ZIMMERMAN, AND HUNTER

On October 5, 1982, Administrative Law Judge Jerrold H. Shapiro issued the attached Decision in this proceeding. Thereafter, the General Counsel filed exceptions and a supporting brief, and Respondent filed a brief in response to the General Counsel's exceptions.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the record and the attached Decision in light of the exceptions and briefs and has decided to affirm the rulings, <sup>1</sup> findings, <sup>2</sup> and conclusions of the Administrative Law Judge and to adopt his recommended Order.

# **ORDER**

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board adopts as its Order the recommended Order of the Administrative Law Judge and hereby orders that the complaint be, and it hereby is, dismissed in its entirety.

<sup>1</sup> The General Counsel excepts to the Administrative Law Judge's ruling at the hearing that certain proffered testimony was inadmissible solely because it was hearsay. While we agree with the Administrative Law Judge's ruling that the proffered testimony herein was inadmissible because of its unreliability, we note that hearsay is not per se inadmissible in Board proceedings. Alvin J. Bart and Co., Inc., 236 NLRB 242 (1978), reversed on other grounds 598 F.2d 1267 (2d Cir. 1979); Georgetown Associates d/b/a Georgetown Holiday Inn, 235 NLRB 485, fn. 1 (1978).

<sup>2</sup> The General Counsel has excepted to certain credibility findings made by the Administrative Law Judge. It is the Board's established policy not to overrule an administrative law judge's resolutions with respect to credibility unless the clear preponderance of all of the relevant evidence convinces us that the resolutions are incorrect. Standard Dry Wall Products, Inc., 91 NLRB 544 (1950), enfd. 188 F.2d 362 (3d Cir. 1951). We have carefully examined the record and find no basis for reversing his findings.

We do correct an inadvertent error at fn. 7 of the Decision. The date referred to should be April 22 not April 26.

Member Hunter finds it unnecessary to pass on the Administrative Law Judge's alternate finding that even if his credibility resolution regarding Crosthwaite's testimony were incorrect, Respondent still would not have violated the Act. He further notes that the General Counsel's proffered hearsay testimony does not detract from the probative worth of the Administrative Law Judge's findings, which establish that no violation was made out in this proceeding.

# **DECISION**

#### STATEMENT OF THE CASE

JERROLD H. SHAPIRO, Administrative Law Judge: The hearing in this case held on June 9, 1982, is based on an unfair labor practice charge filed by Advanced Coatings and Insulation of Arizona, Inc., herein called ACI, on April 30, 1982, and a complaint issued on May 6, 1982, on behalf of the General Counsel of the National Labor Relations Board, by the Board's Regional Director for Region 28, alleging that the United Union of Roofers. Waterproofers, and Allied Workers, Local Union No. 135, AFL-CIO, herein called Respondent, has engaged in unfair labor practices within the meaning of Section 8(b)(4)(i) and (ii)(B) of the National Labor Relations Act, as amended, herein called the Act, by picketing on April 22, 1982, at the Hassayampa Pumping Plant, herein the Project, in furtherance of its labor dispute with ACI, at a gate reserved for neutral employers with an object of forcing and requiring the Project's general contractor, by the Guy F. Atkinson Construction Company, herein Atkinson, to stop doing business with ACI which was one of Atkinson's subcontractors.1 Respondent filed an answer denying the commission of the alleged unfair labor practices.2

Upon the entire record, from my observation of the demeanor of the witnesses, and having considered the post-hearing briefs filed by the Charging Party, the General Counsel, and Respondent, I make the following:

#### FINDINGS OF FACT

#### I. THE ALLEGED UNFAIR LABOR PRACTICES

# A. The Evidence

The Hassayampa Pumping Plant is being constructed in the Arizona desert by the United States Department of Interior's Bureau of Reclamation. Atkinson is the general contractor responsible for constructing the pumping plant's foundation and intermediate structure and to enclose the structure. This phase of the project started in October 1979 and was scheduled to be completed by June 1982.

In carrying out its responsibilities as the Project's general contractor, Atkinson employed its own employees and entered into contracts with several subcontractors. One of these subcontractors was ACI which contracted with Atkinson to do roofing work. ACI was scheduled to do this work during the weekend of April 17-18, 1982.<sup>3</sup>

ACI's employees are not represented by a labor organization. Atkinson's employees and the employees of the

<sup>&</sup>lt;sup>1</sup> The record establishes that during a 12-month period material to this case that ACI, the primary employer herein, by virtue of its \$100 thousand contract with Atkinson to perform roofing work on the Project met one of the National Labor Relations Board's applicable discretionary jurisdictional standards and is an employer engaged in commerce within the meaning of Sec. 2(6) and (7) of the Act. I therefore find it will effectuate the policies of the Act to assert jurisdiction herein.

<sup>&</sup>lt;sup>2</sup> In its answer Respondent admits it is a labor organization within the meaning of Sec. 2(5) of the Act.

<sup>&</sup>lt;sup>3</sup> Unless otherwise specified, all dates herein refer to 1982.

several contractors employed at the Project during the time material to this case were represented by the various labor organizations which had jurisdiction over the respective crafts. The employees employed at the Project worked Monday through Friday from approximately 6:30 a.m. to 3 p.m., except for ACI's employees. Atkinson, to avoid labor trouble, apparently scheduled ACI to do its work during the weekend when the employees represented by the unions would not be present.

In order to get to the Project the employees took Highway 60 to Patton Road, then drove 9 miles on Patton Road onto a 6-mile dirt access road, herein called the Dirt Road, which ends at the Project. There was also another dirt access road which led to the Project. This road, herein called the Canal Road, intersects with Patton Road soon after the intersection of Highway 60 with Patton Road and runs parallel to the Granite Reef Aqueduct. The Canal Road was not used by employees to go to and from the Project because there were a series of gates along it which were usually locked, thus preventing ingress or egress.

ACI's employees began their work Saturday, April 17, but were unable to complete it on Sunday, April 18, as scheduled, and because of this were scheduled to complete their work Monday, April 19. On April 19 at approximately 9:30 a.m. Atkinson's project manager, Harold Lokovsek, met with the union stewards who represented the several crafts employed on the Project and told them that due to unforeseen problems ACI's employees had been unable to complete their work Sunday and would be working that day. Lokovsek asked for the cooperation of the employees who were represented by the several craft unions and specifically asked that they continue to work despite the presence of ACI's nonunion employees. During the meeting Lokovsek also alerted the union stewards that ACI's employees were using roofing materials which were of a toxic nature and explained how Atkinson intended to handle this matter so as to avoid any health hazard to the employees employed on the Project. One-half hour after this meeting all of the employees at work at the Project, except those working for one company, ceased work and left the Project. Although approximately three workers returned to work Thursday, April 22, and approximately another 21 returned Friday, April 23, the remainder of the approximately 137 workers who were employed on the Project by Atkinson and its several contractors did not return to work until Monday, April 26. The record establishes that ACI's employees finally finished their work at the Project during the weekend of April 24-25. There is no evidence that on either Monday, April 19, or Tuesday, April 20, that Respondent picketed the Project. Nor is there evidence that Respondent was responsible for the initial work stoppage on April 19 or the refusal thereafter of the workers to return to work on April 19

On Tuesday, April 20, at approximately 10 a.m., Respondent's business manager, Don Prosise, visited the Project and spoke to Project Manager Lokovsek. Prosise asked if ACI was on the job. Lokovsek indicated that ACI's employees were expected that afternoon. Prosise stated that the other crafts had contacted him about ACI

working on the Project and that the other crafts had indicated they were mad about this and would support him if he picketed the job. Prosise further stated that he preferred not to picket because he did not have sufficient manpower.<sup>4</sup>

On Wednesday, April 21, at approximately 5 a.m., Respondent commenced to picket the Project as two pickets stationed themselves on the Dirt Road with picket signs which read as follows:

PICKET
NOTICE TO THE PUBLIC
Advance Coatings
Paying
SUB-STANDARD WAGES
Phoenix Roofers Local #135
254-7059

During the morning of April 21 the pickets learned that ACI's employees were using the Canal Road to enter the Project so at that time one picket left the Dirt Road and continued his picketing on the Canal Road and was joined shortly thereafter by the other picket. They remained on the Canal Road for the remainder of the day. Either at the same time as the two pickets commenced picketing on the Canal Road or shortly thereafter Atkinson posted signs on the two roads. One sign was posted about one half mile from the Project at the last gate on the Canal Road and read as follows:

#### GATE NO. 1

THIS GATE IS EXCLUSIVELY RESERVED FOR EMPLOYEES, SUPPLIERS, AND VENDORS OF ADVANCED COATING & INSULATION OF ARIZONA INC. EMPLOYEES, SUPPLIERS AND VENDORS OF THE ABOVE ARE PROHIBITED FROM USING ANY OTHER GATE

Another sign was posted approximately 1-1/2 miles from the Project at a cattle guard on the Dirt Road and read as follows:

# GATE NO. 2

THIS GATE IS EXCLUSIVELY RESERVED FOR
THE EMPLOYEES, SUPPLIERS AND VENDORS
OF THE FOLLOWING:
[names of Atkinson and its
several subcontractors on the Project]
EMPLOYEES, SUPPLIERS AND VENDORS OF
ADVANCED COATINGS OF ARIZONA, INC. ARE
PROHIBITED FROM USING THIS GATE

The above-described signs were posted at all times material except that during the night of April 21 the sign at

<sup>&</sup>lt;sup>4</sup> The description of Lokovsek's April 20 conversation with Prosise is based on Lokovsek's testimony. Lokovsek failed to include this conversation in the affidavit he submitted on April 22 to the Board. Nonetheless, I have credited his testimony because he impressed me as a credible witness and because Prosise, who testified for Respondent, did not refute the testimony.

gate 2 disappeared and was not reposted until April 22 at approximately 8:30 a.m. There is no evidence, direct or circumstantial, attributing the removal of the sign to a picket or a representative of Respondent or someone acting on behalf of Respondent.

On April 21, shortly after noontime, Respondent received a telegram from ACI which in pertinent part advised Respondent that a reverse gate had been set up for the use of ACI's employees and suppliers on the Canal Road and asked Respondent to conduct its picketing there. During the afternoon of April 21 Respondent's business manager, Prosise, promptly upon receipt of the telegram, went to the Project to be sure that the pickets had moved from the Dirt Road to the Canal Road where the telegram stated the reserved gate had been posted. Prosise personally went to the area of gate 1 to observe whether the gate was properly posted.

Respondent picketed at the Project on 3 days: April 21, 22, and 23. The April 21 picketing has already been described. On April 23 the pickets only picketed in the vicinity of gate 1, the gate reserved for ACI. Likewise on April 22 the pickets stationed themselves at gate 1. But, as described below, Atkinson's labor relations administrator testified that one of the pickets carrying a picket sign walked in front of his automobile in the vicinity of gate 2. The persons assigned by Respondent to picket at the Project on April 22 were Robert Singley and John Calderon. On the morning of April 22 they were unable to use the Canal Road to get to gate 1 inasmuch as the gate located at the start of the Canal Road was locked.<sup>5</sup> Thus, to get to gate 1 they were forced to use the Dirt Road, park their automobiles in the vicinity of gate 2, and walk across the Granite Reef Aqueduct to gate 1.

The labor relations administrator for Atkinson, Francis Crosthwaite, testified that on April 22 at approximately 6:15 a.m. he was driving on the Dirt Road in the vicinity of gate 2 on his way into the Project when a man with a full beard who was carrying a picket sign on his shoulder crossed in front of his automobile causing Crosthwaite to stop momentarily, and then this bearded man "proceeded on down the road." Crosthwaite further testified that no one was picketing at gate 1 at this time. This is the sole evidence that subsequent to the posting of gate 1 for ACI and gate 2 for the neutral employers that Respondent picketed in the vicinity of gate 2.

Singley, who has a full beard, specifically denied picketing on April 22 in the vicinity of gate 2 when Crosthwaite came to work or at any other time. Singley's testimony in this respect was corroborated by Calderon's. Also, four of Atkinson's employees, 6 who on April 22 were in the vicinity of gate 2 during the period of time Crosthwaite testified he observed the bearded picket, refuted Crosthwaite's testimony insofar as it was intended to suggest that Singley was picketing in the vicinity of

gate 2 at that time. They testified that during that period of time the pickets were picketing at gate 1.

On April 22 at approximately 10 a.m. Respondent's business manager, Prosise, accompanied by a representative from the Roofers International Union, met with Lokovsek and Crosthwaite in Lokovsek's office at the Project. During this meeting Crosthwaite stated that there had been a bearded individual picketing at gate 2 that morning. Prosise, referring to Singley, indicated that that morning he had assigned a new man to picket who had a beard, but the man should not have been at gate 2 as he had been instructed to picket gate 1. Crosthwaite described the bearded man as being tall and slender at which point Prosise declared "that cannot be the new man. That is not his build."

### B. Discussion and Ultimate Findings

Section 8(b)(4)(i) and (ii)(B) states in pertinent part that it is an unfair labor practice for a labor organization or its agents:

(i) . . . to induce or encourage any individual employed by any person . . . to engage in a strike . . . or (ii) to threaten, coerce, or restrain any person . . . where in either case an object thereof is:

(B) forcing or requiring any person . . . to cease doing business with any other person . . . Provided, That nothing contained in this clause (B) shall be construed to make unlawful, any . . . primary picketing.

These provisions implement "the dual congressional objectives of preserving the right of labor organizations to bring pressure to bear on offending employers in primary labor disputes and of shielding unoffending employers and others from pressures in controversies not their own." N.L.R.B. v. Denver Building and Construction Trades Council, et al., 341 U.S. 675, 692 (1951); see National Woodwork Manufacturers Association et al. v. N.L.R.B., 386 U.S. 612, 620-627 (1967). In each case, therefore, the union's conduct must be scrutinized to ascertain whether it engaged in protected primary or illegal secondary activity.

Frequently, there is no "glaringly bright line" between what constitutes primary and secondary picketing. Local 761, International Union of Electrical, Radio and Machine Workers, AFL-CIO [General Electric Company] v. N.L.R.B., 366 U.S. 667 at 673 (1961). That distinction may be particularly difficult to draw in "common situs" situations, such as this case, where the primary and neutral employers are working on the same premises simultaneously. Construction contractors involved on a common situs are neutrals as to each other's labor disputes and are, accordingly, entitled to the protection of Section 8(b)(4). N.L.R.B. v. Denver Building and Construction Trades Council, supra, 341 U.S. at 689-690; N.L.R.B. v. Nashville Building and Construction Trades Council [Frank W. McCulloch, et al.], 383 F.2d 562, 564-566 (6th Cir. 1967). As a consequence, while a union is

<sup>&</sup>lt;sup>5</sup> The gates which block access to the Canal Road were apparently kept locked until ACI's workers used that road to go to work. On April 22 ACI apparently did not start work until the afternoon. The record does not indicate that Respondent had been placed on notice on April 22 that ACI would not be working at the Project until that afternoon or should have known this.

<sup>&</sup>lt;sup>6</sup> Robert Delaney, Michael Gudenkauf, John Gudenkauf, and Alonzo Leon.

allowed to picket the project in furtherance of its dispute with the primary employer, it nevertheless is obligated to make every reasonable effort to minimize the impact on neutrals of the inducements and restraints inherent in the picket line. N.L.R.B. v. Nashville Building and Construction Trades Council, supra, 426 F.2d at 391; American Bread Company v. N.L.R.B., 411 F.2d 147, 154 (9th Cir. 1969).

In Sailors Union of the Pacific, AFL (Moore Dry Dock), 92 NLRB 547, 549 (1950), the Board articulated the following evidentiary criteria for evaluating the legality of picketing in common situs situations:

[P]icketing . . . is primary if it meets the following conditions: (a) [t]he picketing is strictly limited to times when the *situs* of dispute is located in the secondary employer's premises; (b) at the time of the picketing the primary employer is engaged in its normal business at the *situs*; (c) the picketing is limited to places reasonably close to the location of the *situs*, and (d) the picketing discloses clearly the dispute is with the primary employer.

Accord: Local 761, Electrical Workers v. N.L.R.B., supra, 366 U.S. at 679; N.L.R.B. v. Nashville Building and Construction Trades Council, supra, 425 F.2d at 390-391. These standards are not applied mechanically. However, failure to comply with any one of the Moore Dry Dock criteria provides a strong, although rebuttable, presumption that the picketing had an unlawful secondary purpose. Ramey Construction Co., Inc. v. Local Union No. 544, Painters, Decorators and Paperhangers of America, 472 F.2d 1127, 1132 (5th Cir. 1972); International Brotherhood of Electrical Workers, Local 480, AFL-CIO [Gulf Coast Bldg. & Supply Co.] v. N.L.R.B., 413 F.2d 1085, 1089 (D.C. Cir. 1969); N.L.R.B. v. Northern California District of Hod Carriers and Common Laborers of America, AFL-CIO [Joseph's Landscaping Service], 389 F.2d 721, 725 (9th Cir. 1968), enfg. 154 NLRB 1384 (1965). And in applying the third Moore Dry Dock criteria that picketing must be limited to places reasonably close to the location of the situs it is settled that the situs of a union's dispute with an employer may be localized in a common situs construction project situation by establishing a separate gate for the primary employer. Local 761, International Union of Electrical, Radio and Machine Workers, AFL-CIO [General Electric Company] v. N.L.R.B., 416 F.2d 1120, 1125 (D.C. Cir. 1969). If picketing is not confined to an area reasonably close to the entrance "reserved" for the primary and its employees and suppliers, the union is considered to be pursuing unlawful secondary objectives. Carpenters Local 470, United Brotherhood of Carpenters and Joiners of America, AFL-CIO [Muller-Anderson, Inc.] v. N.L.R.B., 564 F.2d 1360, 1363 (9th Cir. 1977); Local Union No. 369, International Brotherhood of Electrical Workers, AFL-CIO (Kelly Electric Co., Inc.), 216 NLRB 141, 144 (1975), enfd. sub nom. N.L.R.B. v. Nashville Building and Construction Trades Council, supra, 383 F.2d at 464-565; Building and Construction Trades Council of New Orleans, AFL-CIO (Markwell and Hartz, Inc.), 155 NLRB 319, 326 (1965),

enfd. 387 F.2d 79, 81 (5th Cir. 1967), cert. denied 391 U.S. 914 (1968).

The sole unfair labor practice allegation in the complaint is that on April 22 Respondent violated Section 8(b)(4)(i) and (ii)(B) of the Act by picketing the Project at gate 2, the gate reserved for the neutral employers and their suppliers. As I have described supra, this contention is based on the testimony of Atkinson's labor relations administrator, Francis Crosthwaite, who testified that at approximately 6:15 a.m. on April 22, while driving into the Project on the Dirt Road, that while in the vicinity of the reserve gate one of the pickets, the one with the beard, walked across the road with a picket sign causing Crosthwaite to stop momentarily and then the picket "proceeded on down the road." No evidence was presented which corroborates Crosthwaite's testimony.7 or to establish that Respondent picketed in the vicinity of the reserve gate on April 22 at any other time or times. On the other hand Respondent's bearded picket, Robert Singley, who in terms of his testimonial demeanor impressed me as a sincere and reliable witness, specifically denied Crosthwaite's testimony. Singley's testimony in this respect was corroborated by the testimony of Respondent's other picket, John Calderon, who likewise impressed me demeanorwise as an honest witness.8 Singley's and Calderon's testimony in this respect was corroborated by the testimony of Atkinson's employees Robert Delaney, Michael Gudenkauf, John Gudenkauf, and Alonzo Leon, who were in the vicinity of the reserve gate on April 22 when Crosthwaite came to work. These employees impressed me as credible witnesses. It is for these reasons that I reject Crosthwaite's testimony. Accordingly, I shall recommend that the complaint be dismissed in its entirety.9

In the event I have erred in rejecting Crosthwaite's testimony the result would still be the same. Even accepting Crosthwaite's testimony, Respondent's picketing in this case complied in all respects with the standards for lawful common situs picketing established in *Moore Dry Dock*<sup>10</sup> with the arguable exception of the conduct of picket Singley, who, on April 22, when in the vicinity of the neutral gate, walked accross the road in front of Crosthwaite's automobile and then proceeded to walk

<sup>&</sup>lt;sup>7</sup> As a matter of fact, Project Manager Lokovsek's testimony is inconsistent with Crosthwaite's in certain significant respects. Lokovsek testified that on April 26, when Crosthwaite arrived at the Project, Crosthwaite told Lokovsek that he had observed "pickets" on the Dirt Road, not in the vicinity of the reserve gate, but 2 to 3 miles before he even reached the vicinity of the reserve gate.

<sup>8</sup> In evaluating Calderon's and Singley's testimony I have considered

<sup>&</sup>lt;sup>8</sup> In evaluating Calderon's and Singley's testimony I have considered that their testimony was not consistent insofar as it involved the exact point in time on April 22 when Calderon handed Singley a picket sign. Likewise, I have considered the fact that their testimony concerning the exact time they started to picket on April 22 was not consistent with John Gudenkauf's testimony. Nonetheless, in my opinion, these inconsistencies are insufficient to impugn the essential part of their testimony, corroborated by the testimony of four of Atkinson's employees, that Singley did not picket in the vicinity of the reserve gate during the time in question.

<sup>9</sup> Other than Crosthwaite's testimony about the picket crossing in front

Other than Crosthwaite's testimony about the picket crossing in front of his automobile on April 22, there is no other evidence in the record which arguably indicates that Respondent's picketing had an objective of enmeshing the neutral employers in its primary labor dispute with ACI.

<sup>10</sup> Sailors Union of the Pacific (Moore Dry dock), 92 NLRB 547 (1950).

"on down the road."11 Under the particular circumstances of this case this momentary walk by a picket does not warrant an inference that it was done with an object of enmeshing the neutral employers in Respondent's labor dispute with ACI. Thus, on April 22 Respondent's pickets were unable to use the Canal Road to get to the primary gate, but instead had to use the Dirt Road and park their automobiles in the vicinity of the reserve gate and from there proceed by foot to the primary gate. Under these circumstances, it is just as likely that when Singley crossed the road in front of Crosthwaite's automobile and then proceeded to walk on down the road that Singley was on his way to the primary gate rather than picketing in the vicinity of the reserve gate. This inference is bolstered by the testimony of Atkinson's employee John Gudenkauf who testified that at approximately 6 a.m. on April 22 he observed one of the pickets park his automobile in the vicinity of the reserve gate and walk from there with his picket sign to the primary gate where he proceeded to picket. Indeed, there is no evidence that Singley remained in the vicinity of the reserve gate instead of going to the primary gate where he was supposed to be picketing. As a matter of fact, all of the record evidence, including the testimony of General Counsel's witnesses Crothswaite and Lokovsek, indicates that other than the momentary frolic by Singley when he walked in front of Crosthwaite's automobile on his way to the primary gate that Respondent's pickets on April 22 restricted their picketing to the vicinity of the primary gate. I recognize that the particular time when Crosthwaite observed Singley crossing the road with a picket sign in the vicinity of the neutral gate was during the period of time when the employees would normally be coming to work. Under certain circumstances an inference might be warranted that the sight of a picket in the vicinity of the neutral gate no matter how brief, would constitute a signal to the employees not to go to work and that Respondent knew this. This is not such a situation. For, on April 19 and 20, when there were no pickets at the Project, all the workers, without any prompting by Respondent or its agents, ceased work and remained away from work on those days. In fact, the workers stayed away from work on April 20 even though ACI's employees performed no work on the Project on that date. Under the circumstances, the failure of the employees to go to work on April 22 does not warrant an inference that Respondent was picketing in the vicinity of the neutral gate or that the employees acted pursuant to a signal from Respondent.

In summation, assuming arguendo Crosthwaite's testimony is credible, it establishes one walk across the road in the vicinity of the neutral gate by one person carrying a picket sign on one occasion, which under the particular circumstances of this case is insufficient to warrant a finding that by engaging in such conduct the Respondent was motivated by a desire to enmesh neutrals in its labor dispute with ACI.

Upon the basis of the foregoing findings of fact, conclusions of law, and the entire record in this proceeding, and pursuant to Section 10(c) of the Act, I hereby issue the following recommended:

# ORDER<sup>12</sup>

The complaint is dismissed in its entirety

<sup>11</sup> There is no extrinsic evidence, i.e., conduct of Respondent other than its picketing, that Respondent's picketing had an object of enmeshing the neutral employers in its primary labor dispute with ACI.

<sup>12</sup> In the event no exceptions are filed as provided by Sec. 102.46 of the Rules and Regulations of the National Labor Relations Board, the findings, conclusions, and recommended Order herein shall, as provided in Sec. 102.48 of the Rules and Regulations, be adopted by the Board and become its findings, conclusions, and Order, and all objections thereto shall be deemed waived for all purposes.